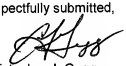
PRE-APPEAL BRIEF REQUEST FOR REVIEW (filed with the Notice of Appeal)	Docket Number 042933 / 269772
Application Number: 10/715,095	Filed: November 17, 2003
First Named Inventor: Oksanaen, Olli	
Art Unit: 2173	Examiner: Tan, Alvin H.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

Respectfully submitted,



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Reasons for Requesting Pre-Appeal Brief Request for Review

I. **Claims 1, 3-5, 7-15, 17-25, 27, 29, 30, 31, 32-34, 35, 36, 37-39, 40, 41, 42-45, and 47 are *not* rendered obvious by the Rothmuller publication in view of the Lyness patent and the Becker patent**

Applicant respectfully submits that the interpretation of the disclosure of the cited references, particularly the Rothmuller publication, and the corresponding applications of the cited references to the pending claims are inaccurate and incomplete. As such, Applicant respectfully submits that the final Office Action and Advisory Action fail to establish a *prima facie* case for obviousness, including failing to establish that each and every element of the pending claims and the claimed invention when considered as a whole are rendered obvious.

A. **Rothmuller discloses a scrolling *icon* bar, *not* a scrolling *time* bar**

Independent Claims 1, 22, and 24 each recites "a timeline view comprising a ***scrolling time bar*** and a media handle." The final Office Action and Advisory Action state, with respect to the Rothmuller publication, that "the bar that contains the icon may be considered a scrolling time bar since it is used to scroll through different periods of the timeline." Applicant refutes this assertion.

(1) The Rothmuller publication only discloses a *scrolling **icon** bar* beneath a fixed timeline 250. Applicant submits that use of a *scrolling icon bar* to control scrolling through different periods of a timeline fixed does not change the fact that the scrolling bar is a scrolling ***icon*** bar, and not a scrolling *time* bar. The Advisory Action has *sua sponte* decided that a use of a thing permits that thing to be considered as something that it is not. And Applicant submits that one of ordinary skill in the art, giving the claims the "broadest *reasonable* interpretation *consistent with the specification*," would understand that a scrolling icon bar is not a scrolling time bar, because a scrolling icon bar does not have the characteristic of scrolling a time view. *See, e.g., In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004) (emphasis added). *See also* MPEP § 2111; *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005). Accordingly, Applicant refutes the breadth of the interpretation provided in the Advisory Action to the extent that a scrolling *icon* bar is considered to be a scrolling *time* bar. The claim term "scrolling time bar" must be interpreted as one of ordinary skill in the art would interpret the claim term in light of the specification. Figures 1, 4, and 5 clearly show time bar 310 as a visual representation of periods of time within am elongated rectangular boundary. And the specification provides numerous functional descriptions that support the assertion that the time bar itself scrolls, not a related control icon (*e.g.*, "**the time bar will scroll** simultaneous with scrolling of the underlying media view or calendar view," para. 0061). As such, the time bar of the present invention is referred to as a "scrolling time bar" (*e.g.*, para. 0061).

(2) Further, Applicant believes that it is an inherent characteristic of a scrolling time bar that the time bar may be scrolled to indicate periods of time beyond that which is shown in the extent of the currently visible periods of time of the time bar. If this characteristic were not true, then the time bar would be a fixed presentation of the extent of the periods of time, such as the fixed timeline 250 of the Rothmuller publication. This characteristic is also supported by the specification. For example, Figures 1, 4, and 5 depict the terminating ends of time bar 310 as randomly truncating the representations of the affected periods of time, thereby indicating that one of ordinary skill in the art would understand that a scrolling time bar is capable of indicating periods of time beyond that which is shown in the extent of the currently visible periods of time of the time bar. As such, although this feature is not expressly recited in the claims, Applicant submits that it is an accurate feature of a scrolling time bar to distinguish the fixed timeline 250 and the scrolling icon bar of the Rothmuller publication from the claimed scrolling time bar.

(3) Similarly, Applicant submits that the statement in the Advisory Action that "One may interpret the adjustable bands 251 within the timeline to read on a scrolling time bar" is inconsistent with a reasonable interpretation of a scrolling time bar consistent with the specification of the present application. The presence of adjustable bands 251 on the fixed timeline does not change the fact that the fixed timeline does not scroll. As such, Applicant submits that it is *not* reasonable to characterize the fixed timeline with adjustable bands as a *scrolling* time bar.

B. Disclosure of a return-to-center input device in Lyness does *not* render obvious a scrolling time bar

Further, nothing in the Lyness patent teaches or suggests that use of a return-to-center input device would result in a scrolling time bar. And the Advisory Action provides no reasonable explanation for such a result. Rather, the Advisory Action only provides that use of a return-to-center input device such as disclosed in the Lyness patent would provide a means for "navigating a set of information." However, the mere possibility that a return-to-center input device *might* be used to control a scrolling time bar is *not* sufficient to support an obviousness rejection under 35 U.S.C. § 103(a) absent some articulate rationale that a *scrolling* time bar would be obvious based upon a return-to-center input device of the Lyness patent and a *fixed* timeline of the Rothmuller patent or the content of other prior art determined at the time the invention was made by the Applicant. *Accord In re Robinson,* 169 F.3d 743, 745 (Fed. Cir. 1999); *Ex parte Skinner*, 2 U.S.P.Q. 2d 1788, 1789 (Bd. Pat. App. & Inter. 1986). *See also KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. ___, 127 S. Ct. 1727, 82 USPQ2d 1385 (2007). The Lyness patent only discloses using a return-to-center input device for navigating hierarchical information, such as a file system, or a flat list. But nothing in the Lyness patent teaches or even suggests that a return-to-center input device could be used with a fixed timeline to create a scrolling time bar. Thus, Applicant submits that it would not have been obvious to one of ordinary skill in the art of the time the invention

was made to use the return-to-center user interface control tool of the Lyness patent to scroll through the fixed timeline of Rothmuller to device a scrolling time bar.

II. Claim 7 is *not* rendered obvious by the Rothmuller publication in view of the Lyness patent and the Becker patent because the cited references do *not* teach or suggest "decreasing the speed of the browsing in relation to the distance of the approaching media file"

Dependent Claim 7 recites "decreasing the speed of the browsing in relation to the distance of the approaching media file." The Advisory Action states "Examiner notes that the term 'approaching' does not necessarily constitute an object is not yet within view." As noted above, a term of a claim must be interpreted as one of ordinary skill in the art would interpret the claim term "consistent with the specification." *See, e.g., In re Am. Acad. of Sci. Tech. Ctr., supra*; *Phillips v. AWH Corp., supra.* Applicant notes that the term "approaching" is used in the specification with reference and in relation to the visible display area. For example, the specification describes that "the system observes metadata of the media files that are *approaching the visible display area* already *before they enter the visible display area* (in order to create smooth slow down of the scrolling)" (para. 0072). And the specification refers to the corresponding distance as "the distance remaining to be scrolled to bring the media file into the viewable area of the display" (para. 0073). As such, Applicant submits that one of ordinary skill in the art would find that the broadest reasonable interpretation of the claim limitation "decreasing the speed of the browsing in relation to the distance of the approaching media file" refers to the media file approaching the visible display area and before entering the display area and *not*, as suggested by the Advisory Action, to include an object already in the media view. And, by comparison to the claim limitation, the Becker patent only discloses the concept and ability to dynamically vary scroll speed in response to the content of the viewed portion of the viewable object (*i.e.*, within the view of the display). Nothing in the Becker patent teaches or suggests adjusting the speed of browsing *before* a media file is in the viewable portion of the display.

III. Claims 8, 32, and 37 are *not* rendered obvious by the Rothmuller publication in view of the Lyness patent and the Becker patent because the cited references do *not* teach or suggest "increasing the speed of the browsing when a media file having the chosen browse parameter bypasses the centerline position of the media view"

(A) Dependent Claims 8, 32, and 37 recite limitations of increasing the speed of the browsing when a media file having the chosen browse parameter bypasses the centerline position of the media view. The Advisory Action notes that "Lyness discloses displaying a return-to-center user interface control tool... for navigating a set of information" and "As shown in *[Lyness, figure 16]*, the control tool is centered below the information is navigating." The potential of a central position of a return-to-center user interface control tool appears to be the asserted rationale that the Lyness patent discloses or renders obvious a centerline position of a media view. Applicant refutes this assertion. While the position of a return-to-center user interface control tool may be relative to a view, the Lyness patent does not disclose use of a return-to-center user interface control tool with a timeline view. And Applicant submits that the relative position of a user interface control tool does not disclose a media view to have a corresponding centerline position.

(B) Further, Applicant submits that the relative position of a user interface control tool does not disclose increasing the speed of the browsing when a media file having the chosen browse parameter bypasses the centerline position of the media view (even if the position of a user interface control tool is centrally located relative to a view). That is, nothing in any of the cited references, particularly the Lyness patent and the Becker patent, discloses increasing the speed of the browsing when a media file having the chosen browse parameter bypasses a position of a user interface control tool centrally located relative to a view. The Advisory Action states that "the scrolling may proceed slower when more intricate sections are being displayed than when simple sections are displayed," citing to the Becker patent. But, this disclosure is unrelated to a centerline position of a view. Instead, the disclosure of the Becker patent merely refers to "being displayed" (i.e., within the view of the display). However, the Advisory Action also states "The centerline position of a view that causes the increase in speed of browsing would be the view of the graphical representation that represents the most intricate part of it and thus, would have a scroll speed of the slowest possible. Any movement from that centerline position would cause at least some decrease in intricacy and thus, the scrolling speed would be increased." Applicant refutes this assertion. This is mere speculation or conjecture of the Advisory Action without any support in the prior art. The Becker patent only discloses "If the content is a graphical representation, for example, of an engine part, the scrolling may proceed slower when more intricate sections are being displayed than when simple sections are displayed." Nothing in the Becker patent discloses that the most intricate part of the graphical representation would correspond to a centerline position of a view. The

Becker patent merely refers to the graphical representation "being displayed," without any reference to the relative position of the graphical representation within the view of the display.

(C) Further, the Advisory Action states "Examiner notes that nowhere in the claim defines what part of the media file that bypasses the centerline position of a view causing the increase in speed of browsing." With respect to this remark, Applicant first notes that the claim limitation refers to "a media file" bypassing the centerline position of the media view. There is no suggestion or ambiguity that less than the entire media file would satisfy the claim limitation. And there is no suggestion or ambiguity that increasing the speed would relate to a part of the media file. Applicant notes that the media files are consistently shown in the figures as icon representations, such as an icon of a thumbnail image with a brief text description or as an icon with just text. As such, Applicant submits that one of ordinary skill in the art would interpret a media file bypassing a centerline position of a media view as the icon representation of the media file bypassing the centerline position of the media view.

Accordingly, for at least the reasons stated above, Applicant respectfully submits that, on the basis of the current rejections, the § 103(a) rejections of Claims 1, 3-5, 7-25, 27, and 29-47 should be reversed and that all of Claims 1, 3-5, 7-25, 27, and 29-47 are patentable and in condition for allowance. Reconsideration is respectfully requested.